

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:) Case No. 18-22753-RDD
) Chapter 7
DANIEL GARFINKEL)
)
Debtor)
)
DANIEL GARFINKEL)
Plaintiff)
)
v.)
)
NAVIENT SOLUTIONS LLC, NELNET)
STUDENT LOAN SERVICES)

PLAINTIFF'S COMPLAINT

Plaintiff Daniel Garfinkel (“Garfinkel”), files this Complaint against Defendant Nelnet Student Loan Services and Defendant Navient Solutions LLC (“Navient,” and collectively, “Defendants”), on personal knowledge as to Plaintiff’s own acts and upon information and belief as to all other matters, as follows:

I.

PARTIES

A. Plaintiff

1. Garfinkel is a citizen of the State of New York, residing in the Southern District of New York.

B. Defendants

2. Navient Solutions, LLC is a limited liability company headquartered in the state of Delaware, and can be served at PO Box 9500 Wilkes Barre, PA 18773.
3. Nelnet Student Loan Services is a company located in Lincoln, Nebraska and can be served at PO Box 82561, Lincoln, NE 68501-2561.

II.

JURISDICTION AND VENUE

4. This Adversary Proceeding is brought under Case Number 18-22753 (RDD).
5. This Court has jurisdiction over this Adversary Proceeding pursuant to 28 U.S.C. § 1334(b) and 28 U.S.C. § 157(b). This is a core proceeding under title 11 because it concerns a determination as to the dischargeability of a debt.
6. This Adversary Proceeding is brought pursuant to 11 U.S.C. § 523(a)(8), 15 U.S.C. § 1601, 15 U.S.C. § 1692 and Federal Rules of Bankruptcy Procedure Rule 7001.
7. Venue is proper in the Southern District of New York pursuant to 28 U.S.C. § 1409 because this matter arises in and is related to a bankruptcy case in this district.

III.

FACTS

8. Plaintiff is currently indebted to Nelnet Student Loan Services, or one of its principals for approximately \$64,518.
9. Plaintiff is currently indebted to Navient Solutions, LLC for approximately \$5,497.
10. Plaintiff filed for bankruptcy relief in this Court on May 18, 2018.
11. On August 14, 2018, this Court entered a discharge in Plaintiff's bankruptcy proceeding.

12. Plaintiff's combined student debt is approximately \$70,000.
13. In order to pay the combined debt off within the standard ten-year repayment plan, Plaintiff would need to pay approximately \$742 per month.
14. Plaintiff currently earns approximately \$1,200 a month in take-home pay as a home healthcare worker assisting his disabled mother.
15. Plaintiff currently lives with his mother and father.
16. Plaintiff's father and mother also earn \$1,113 in disability and SSI each month.
17. Plaintiff's reasonable and necessary monthly household expenses are \$3,250.
18. Requiring plaintiff to repay the student debt and cover his necessary expenses would impose an "undue hardship" under Title 11.

IV.

CLAIM FOR RELIEF

A. Count One

19. Plaintiff realleges and incorporates by reference all of the allegations contained in all of the preceding paragraphs.
20. Plaintiff is entitled to discharge of his student loan debt because repayment would constitute an "undue hardship" as that term is defined under Title 11.
21. Plaintiff's current monthly income less Plaintiff's current monthly expenses is less than the anticipated student loan payments.
22. Accordingly, Plaintiff prays this Court discharge his debt in total.

V.

PRAYER

23. In light of the foregoing, Plaintiff requests that Defendants be cited to appear and judgment be entered against Defendants for:

- (1) declaratory relief;
- (2) other such relief as the Court deems just and proper.

Respectfully submitted,

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